



**MINUTES OF SPECIAL JOINT MEETING OF THE
CITY COUNCIL/REDEVELOPMENT AGENCY
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 14, 2004, 8:00 p.m.**

MEETING

The Special Joint City Council/Redevelopment Agency Meeting was called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Ward.

ROLL CALL

Present: COUNCIL/RA MEMBERS Jimenez, Quirk Halliday, Ward, Dowling, Henson
MAYOR/CHAIR Cooper
Absent: COUNCIL/RA MEMBERS None

PRESENTATION – Pride in Hayward Award

The December Pride in Hayward Award recipients were from the Southgate Neighborhood. They were: Timothy and Jennifer Schluchter, Joan Bloom, Robert and Patricia Michels, Manuel Ramos and Aristeo and Mildred Macaranas.

PUBLIC COMMENTS

Jason Moreno commented on his new website.

Barbara Heringer-Swarr spoke on community involvement.

CONSENT

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of December 7, 2004

It was moved by Council/RA Member Ward, seconded by Council/RA Member Henson, and carried unanimously, to approve the minutes of the Special Joint City Council/Redevelopment Meeting of December 7, 2004.

2. Resignation of Committee Member Jaquith from the Economic Development Committee

Staff report submitted by City Clerk Reyes, dated December 14, 2004,
was filed.

It was moved by Council Member Ward, seconded by Council Member Henson, and carried unanimously, to adopt the following:

Resolution 04-173, "Resolution Accepting Written Resignation of
Joyce Jaquith as a Member of the Economic Development Committee"

3. Appeal of Revocation of Use Permit PL-2003-0373 – Christian Vigilance Church
(Appellant/Owner) – The Property is Located at 28767 Ruus Road

Staff report submitted by Associate Planner Pearson, dated December 14, 2004, was filed.

Associate Planner Pearson made the staff presentation and responded to Council questions.

Mayor Cooper opened the public hearing at 8:33 p.m. reiterating the time limits for speakers.

Pastor Cornejo, Christian Vigilance Church Pastor, enumerated the modifications to his church operations to comply with City requirements and in respect to the neighbors. He apologized to the community for any disturbances caused by his church. In response to Council Member Ward's question, he indicated that he had no experience in construction and was not aware of the costs. He thought the church would need two to three years to comply with the conditions.

Council Member Ward commented that the conditions are appropriate and it appears that the church is complying. He recommended that better communication take place and suggested an intermediary.

Council Member Halliday stated that she was on the Planning Commission when this was previously discussed and noted that the church promised to make its best efforts to comply. She was disappointed that the church could not comply with operational procedures that were not financial constraints. She asked why those conditions were not met.

Pastor Cornejo said that he misunderstood the Planning Commission's direction. He apologized on the disturbances caused by the cars to the neighbors. He indicated that he made some mistakes and is willing to correct them and meet with the neighbors.

Mayor Cooper urged that when he visits his neighbors door to door that he utilize a person who is fluent in English.

Council Member Henson referred to the letter that was submitted by Bishop Macklin that offers to assist the church within the next sixty days. He asked Pastor Cornejo if he could comply in a lesser time. Pastor Cornejo felt that he could.

Council Member Jimenez asked the members of the congregation to stand and they outnumbered the number of individuals that were against the continuance of the church.

Maria Cornejo, wife of Pastor Cornejo, stated that initially she did not understand what was being required. She noted that the church now has a private fenced area and their desire is to have a peaceful neighborhood.

Bishop J. W. Macklin presented a letter that offered and provided a solution. He talked of change and indicated that this is not the same neighborhood and stressed the importance of resolution. There is a cultural and communication shift that has resulted into this current situation. He reported that several other pastors have joined with him including Reverend Randal Smith of First United Methodist



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Church, and Reverend Richard Tanon of Templo De La Cruz. He asked for sixty days to resolve the issues. He also questioned the requirements for the hours of operation for churches.

It was noted that conditions for approval may include limited hours of operations for churches when there are neighbors similar to businesses.

Council Member Ward stated that he thought the operational issues could be resolved almost immediately. He asked whether the physical improvements could be completed within a reasonable time limit. He thanked the faith based community for its commitment and asked if there would be fiscal assistance. He asked whether the sound wall is required now that sound attenuation has been installed within the church altar area.

Planning Manager Anderly responded that minimum standards call for a masonry wall as the parking and the driveway are adjacent to homes. If the parking area and children's play area were moved to the north side, a masonry wall will not be necessary. She used an aerial photo to display the property. She thought that an alternative site plan with more landscaping could meet the required conditions.

Bishop Macklin suggested a community meeting and recommended that Council meet with clergy of this City to discuss mutual concerns. Council Members concurred. It was noted that the meeting would need to be noticed if four or more members attended.

Council Member Jimenez praised Bishop Macklin for his efforts to making this a better community and was confident that there would be resolution.

Council Member Dowling thanked Bishop Macklin for his efforts and reemphasized that no one is discriminating against the church or how it worships. He reviewed other churches with paved parking areas and landscaping, which is required. He noted that the Christian Vigilance Church parking area is dark and not safe and felt that the Church must meet some minimum requirements. In response to his question whether Spanish speaking resources were provided, staff stated that the effort to supply one was offered.

Reverend Randy Smith felt that mediation and reconciliation could be accomplished and worked out within the sixty-day period. He felt that the Christian community congregations should hold each other accountable. He offered the First United Methodist Church to be of assistance and supported Bishop Macklin's proposal.

Yvette Diaz spoke in support of her rights to worship and was willing to cooperate to hold fast respect, responsibility and harmony with peace. She was willing to work with her neighbors and to assist with the children in order to be cooperative.

Juliana Mora stated that she attends the church and is willing to cooperate such as assisting with childcare. She explained childcare procedures to resolve some neighborhood concerns.

Leonel Mora explained that the church has installed an inner fence to maintain the children and commented that there are now adult supervisors to monitor during the service. He commented on that the double-paned windows and some additional constructional soundproofing.

Mayor Cooper noted that the improvements need to be inspected by City staff to conclude the compliance.

Carlos Garcia expressed his concerns for the future of his children and offered his assistance to his Pastor Cornejo.

The following members spoke in support of their church:

Lupita Salazar
Rodrigo Lugo, Jr.
Juan Navarro
Alfredo Lopez

Mayor Cooper emphasized that this was not an issue of religion.

Andrew La Fleur, a neighbor, reiterated the original Planning Commission conditions of approval related to operational procedures. He strongly opposed noise from the church.

Angel Lopez spoke on the efforts made by the musicians to lower the noise from musical instruments.

Jaime Lopez spoke on the church's focus to keep the noise level low.

Leo Espinoza from Tracy is a member of this church and restated the church efforts. He participated in the construction of the fence and its installation for the protection of the children.

Jason Moreno commented on granting extensions.

Mark Cohen, attorney representing Christian Vigilance Church, reported that his involvement is recent and his best argument on behalf of this church is that it is not fair to impose a substantial financial burden on a working community that supports its young and provides opportunities to do something worthwhile. He noted that this church is an asset to the immigrant community. He pointed out that this came to the City because of alleged parking lot violations. The church should have been told that it only needed to abate the illegal structure. Yet it was issued requirements to modify its use permit. He cited federal legal law related to substantial burden and the \$300,000 to \$350,000 is a substantial financial burden. He indicated that under federal law, religious institutions must be treated differently. He agreed that a faith-based community mediator be utilized to resolve the issues with the neighbors. He proposed that this matter be continued and referred back to staff to work in a realistic manner to allow church compliance. He stated that there was insufficient evidence that the complaints are systematic. The conditions will take a little longer time to fulfill. Attorney Cohen said the church is prepared to comply. Lastly, he referred to documents he submitted prior to his speaking and asked that they be a part of the record, specifically the sound study.

Council Member Halliday asked whether this church was incorporated and whether there are financial



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resources to comply with the most compelling and safety related issues now.

Attorney Cohen reported that current resources are reserved for the sound wall construction. He was agreeable to meeting with staff to utilize the church's immediate resources for the best possible solution.

Mayor Cooper closed the public hearing at 9:48 p.m.

Mayor Cooper did not see a reason why the City cannot wait 60 days. She based her decision on the strength of Bishop Macklin's and Reverend Randy Smith's proposal that the faith-based community assist in resolving the issues.

Bishop Macklin was assured by Council that he could meet with staff prior to the public hearing. Mayor Cooper recommended that the Planning Division proceed through the City's guidelines. She emphasized that at the end of the 60 days, there needs to be a workable plan and a list of physical priorities according to the church's resources and what the other faith-based members are willing to do. She was disappointed that members could not offer more than was offered at the public hearing. She heard few commitments from members. Mayor Cooper was somewhat concerned about the well-being of the children and cautioned that if there is childcare provided other than during church services, the church must abide by the State guidelines for childcare. She admonished parents to take responsibility for the behavior of their children including when they are not in the presence and urged parents to be more responsible.

Council Member Ward agreed with Mayor Cooper and appreciated the offer of an extension. He strongly expressed his concerns to the church administration that they assume the responsibility to notify new members of the importance of being good neighbors. Council Member Ward also agreed that the church make arrangements to meet with the neighbors and find workable solutions relative to the noise situation, which he felt must be dealt with immediately. He urged the church to implement policies immediately, such as moving the cars.

Council Member Jimenez reiterated his confidence in Bishop Macklin. Council Member Jimenez moved, seconded by Council Member Henson, to provide a sixty day extension to allow Pastor Cornejo to meet with the neighbors, the Planning staff and the faith-based community, led by Bishop J.W. Macklin, to resolve outstanding issues and implement policy steps immediately.

Council Member Henson stated that it was never the intent of this congregation to cause a problem for the neighbors and felt that the church did not fully understand the measures for compliance, nor the financial impacts to comply. He stressed open dialogue with neighbors to mitigate the issues. He emphasized the need to resolve the noise issue. Now that it has legal representation, it is important that members understand the implications of this very serious matter. He fully expects something tangible to result in sixty days and anticipates reviewing the list of priorities and urged the inspection by City inspectors of the current improvements that address the noise issues. He would be supporting the

efforts to bring the church into compliance.

Council Member Dowling concurred with the compromise and appreciated Bishop Macklin and other religious leaders, who pledged to help the church. He commented that churches are different than businesses, but when there is a facility, the standard business practice is to comply as any business would. He reported that he drove by on Sunday evening and noted that the parking lot was very dark and in need of lighting for safety. He thought that the monument sign and the fence could be of wood construction. He agreed with Council Member Ward's excellent suggestion to revise the site plan to move the parking area from the resident side closer to the front of the parcel. This could lessen the need for a masonry wall and a wood fence would not be as costly. Council Member Dowling thanked the Planning Commission, staff and the neighbors for coming forward. He noted that there is a lot of good work in this community and the neighbors must be agreeable when there are changes. He noted that if this was a brand new facility there would be similar requirements. He did not want to see the church closed and hoped that operational implementations could resolve the noise issues immediately.

Council Member Halliday spoke in support of the Mayor's recommendation. She agreed with Mayor Cooper's suggestion to see a list of priorities in sixty days. She stressed the need to address safety issues, the neighbor issues, and then the final priority would be beautification issues. She appreciated the legal issues and noted that new facilities must have a use permit prior to occupancy. As this church was grandfathered in from the County, such was not required. She thought that there may be other properties and facilities in similar situations. She stated that the City may have some history in terms of timing and giving some flexibility for non-profit organizations. She personally appreciated the work done by churches of this community.

Bishop Macklin asked that staff provide him the specifics of the conditions and background information that staff is requesting to facilitate the resolution.

It was moved by Council Member Jimenez, seconded by Council Member Henson, and carried unanimously, to provide a sixty day extension to allow Pastor Cornejo of the Christian Vigilance Church to meet with the neighbors, the Planning staff and the faith-based community, led by Bishop J.W. Macklin, to resolve outstanding issues and implement policy steps immediately.

Mayor Cooper called for a recess at 10:01 p.m. and reconvened the Council Meeting at 10:12 p.m.

4. Authorization to Enter into a Purchase and Sale Agreement for the B Street Marketplace –
805-895 B Street

Staff report submitted by Redevelopment Director Bartlett, dated
December 14, 2004, was filed.

Redevelopment Director Bartlett made the staff report of the proposed sale of the B Street Marketplace, noting that this will be a condominium-type sale due to the physical attachment of the public garage. She reported that there were 45 offers with an asking price of \$3.3 million and of the offers, 41 were at or above the asking price. She recommended the final buyers, who she described as reputable with other investments in shopping centers. She noted several details of the process including the close of escrow, which will occur in January, the payment of the brokerage fees and net sale proceeds of \$3.45 million to the Redevelopment Agency.



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In response to Council/RA Member Henson's question, Ms. Bartlett stated that staff is confident that this local buyer meets the standards for maintenance and has a good track record. She reported that the patio area will be conveyed to the buyer and the City and the Redevelopment Agency will have both utility and public passage area easements and will be maintained by the new owners.

Council/RA Member Ward expressed his concerns with the number of offers considering that perhaps the asking price was too low. This site is a key location for Hayward and could be affected by poor maintenance. He was also concerned that with this economy, in a short time period there could be multiple owners of this property. He asked City Attorney O'Toole if there was any legality to require a specific amount of ownership time. City Attorney O'Toole reported that there was none.

In response to Council/RA Member Ward's concern, Redevelopment Director Bartlett reported that maintenance was a chief concern for staff and commented that the buyers take a 'hands-on' position in the maintenance of their investments. She noted that the CC&Rs are written with stringent maintenance obligations. In response to the price, she stated that it is an anomaly of the market and felt that the broker priced it at an aggressive level.

City Manager/Executive Director Armas stated that the CC&Rs provide a continued role in setting the maintenance standards and the identification of inappropriate uses for tenants.

Council/RA Member Dowling asked if there was anything that could be done to spread this to other vacant buildings.

City Manager/Executive Director Armas responded that buyers are different from tenants with different investment goals. The challenge is in finding tenants for not so contemporary facilities. Council/RA Member Dowling thought that the challenge is in ownership of property on B Street. He noted that the Council's Commercial Center is reviewing commercial shopping centers.

Redevelopment Director Bartlett stated that the investment interests were due to several factors, partly the price point and partly because what is occurring in the downtown as well as a new product that is almost physically problem free. She noted that this marketing provided more exposure to investors looking to Hayward.

Council/RA Member Halliday asked about the signage for parking and whether there will be reserved parking for local retail business. It was noted that the efforts to offer retail parking will continue and that signage is essential to keep those who work in the area from parking all day in those spaces. Council/RA Member Halliday stated that the key provision is a high standard of maintenance.

In response to Council/RA Member Jimenez's questions, it was noted that the third story to the parking structure will begin construction in January.

Mayor/Chair Cooper opened the public hearing at 10:28 p.m.

Barbara Heringer-Swarr asked where and how this money will be spent.

City Manager/Redevelopment Executive Director Armas responded that Council will determined at the appropriate time.

Mayor/Chair Cooper closed the public hearing at 10: 29 p.m.

It was moved by Council/RA Member Ward, seconded by Council/RA Member Henson, and carried unanimously, to adopt the following:

RA Resolution 04-18, "Resolution Authorizing the Execution of Purchase and Sale Agreement for the B Street Marketplace Located at 805-895 B Street"

5. Text Amendment Application PL-2004-0600 – Relative to Definition, Conditionally Permitted Use, and Minimum Design and Performance Standards for Theaters and to the Off-Street Parking Regulations for Theaters

Staff report submitted by Planning Manager Anderly, dated December 14, 2004, was filed.

Director of Community and Economic Development Ehrenthal made the staff report, noting that this text change relates to the approval of the Cinema Place project and helps maintain the downtown focus in accordance to the General Plan Policy for the downtown. She discussed and clarified definitions related to the nature of theaters. She also discussed the staff recommendation to revise the parking standard and ratio for the Central City-Plaza District.

There was discussion on the definition of a large motion picture theater. Council Member Quirk did not think it should say, "showing first run films." He also suggested that punctuation be reviewed in Section 10-2.411. Staff agreed.

Council Member Halliday questioned the parking requirements in the central city district, which are different from the general commercial district. She felt that they should be in more comparable terms.

Mayor Cooper opened and closed the public hearing at 10:39 p.m.

It was moved by Council Member Jimenez, seconded by Council Member Halliday, and carried unanimously, with several grammatical revisions to the actual ordinance as provided by Council Member Quirk to adopt the following:

Resolution, 04-174, "Resolution Adopting the Negative Declaration and Approving Text Change Application No. 2004-0600, Relating to Theater"



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Introduce Ordinance 04-__ "Ordinance Amending Section 10-1.3510, 10-1.1015, 10-1.1020, 10-1.1045, 10-1.815, 10-1.820, 10-1.915, 10-1.920, 10-1.1315, 10-1.1320, 10-1.1522, 10-1.1523 and 10-2.411 of Article 1 of Chapter 10 of the Hayward Municipal Code"

COUNCIL REPORTS

There were no Council reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:39 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward
Chair, Redevelopment Agency

ATTEST:

Angelina Reyes, City Clerk, City of Hayward
Secretary, Redevelopment Agency